

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:16-CR-00056-D

UNITED STATES OF AMERICA)	
)	
)	MOTION TO CONDUCT
)	PSYCHOLOGICAL, PSYCHIATRIC AND
)	OTHER EVALUATIONS OF THE DEFENDANT
v.)	AND INCORPORATED
)	MEMORANDUM OF LAW
BRAULIO VALLES FABELA)	

The Defendant, Braulio Valles Fabela, by and through undersigned counsel, hereby moves this Honorable Court to order that an expert conduct psychological, psychiatric and other mental evaluations of the Defendant. The Defendant moves the Court for these evaluations, pursuant to Title 18, United States Code §4241(a) and (b).

The Court may order the Defendant to be examined for any psychological and/or psychiatric defects which effect his ability to proceed to trial or enter a plea under 18 U.S.C. §4241(a) and (b). The Defendant was indicted on March 2, 2016 with the charge of illegal reentry by a felon. Undersigned counsel submitted a Notice of Appearance on May 2, 2016. After many visits with the defendant, undersigned counsel believes that it is imperative for the Defendant to be properly evaluated before further proceeding because of inabilities and difficulties that have presented themselves during the course of her representation, which cannot be ignored. Accordingly, it is believed that the Defendant has a considerable mental deficiency, or possible physical disability hindering his mental abilities, which may have and will impact the Defendant's actions throughout these proceedings. This belief is based upon the observations of Counsel who has conducted multiple interviews with the Defendant. Due to the fact that undersigned counsel is not a doctor and therefore, cannot diagnose the root of the problem as

being a mental illness or if actions and thoughts might be typical behaviors of a person or the result of a physical illness, we ask this Honorable Court to therefore intervene where we cannot.

Additionally, it is not just the opinion of undersigned counsel that the defendant could be experiencing a considerable mental deficiency but also that of his partner, Ms. Marian Jones Aldrich, who has spent a considerable amount of time with Mr. Valles Fabela both before and during incarceration. She herself has been able to notice the deteriorating health of Mr. Valles Fabela while in custody and is now truly mortified and concerned for his well-being. Ms. Aldrich has expressed his forgetfulness and lack of cohesiveness during conversations. Furthermore, officers at the Franklin County Jail seem to also believe that Mr. Valles Fabela is not fully coherent and have made their opinions known to undersigned counsel when she has visited Mr. Valles Fabela at the jail. This is particularly concerning to undersigned counsel given her recent observations and communication with the Defendant. Wherefore, the ends of justice would be better served if the Court ordered the Defendant to be tested to determine whether the Defendant suffers from mental, emotional, or physical deficiencies which would or may impact his ability to proceed.

Accordingly, for the reasons stated above the Defendant, by and through undersigned counsel, moves this Honorable Court to order that an expert conduct psychological, psychiatric, and other evaluations of the Defendant pursuant to 18 U.S.C. §4241(a) and (b).

Moreover, undersigned counsel has discussed this matter with Assistant United States Attorney Sebastian Kielmanovich, and he does not object to this Motion.

Respectfully submitted this the 1st day of July, 2016.

GUIRGUIS LAW, PA

/s/Nardine Mary Guirguis
Nardine Mary Guirguis
Attorney for the Defendant
434 Fayetteville St., Suite 2140
Raleigh, North Carolina 27601
Telephone: (919) 832-0500
nardine@guirguisLaw.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the Assistant Attorney for the United States by electronic transmission as indicated below:

Sebastian Kielmanovich
Assistant United States Attorney
310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601-1461
Sebastian.Kielmanovich@usdoj.gov

This 1st day of June, 2016.

GUIRGUIS LAW, PA

/s/ Nardine Mary Guirguis
Nardine Mary Guirguis
Attorney for the Defendant
434 Fayetteville Street, Suite 2140
Raleigh, North Carolina 27601
Telephone: (919) 832-0500